

APPLICANT(S): STEINER, Mitchell S. et al.  
SERIAL NO.: 10/747,691  
FILED: December 30, 2003  
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Applicants elect with traverse to prosecute claims 1-10 of Group I, drawn to a method of treating a subject with hot flashes, said method comprising the step of administering to subject an anti-estrogen agent and/or its pharmaceutically acceptable salt, hydrate, N-oxide, or any combination thereof.

The election is made with traverse since all claims are related to a method of treating a subject with hot flashes or gynecomastia, which are related conditions and therefore the search does not represent an undue burden of search on the Examiner.

In particular, Applicants submit that groups I and II should be rejoined, as searches of treatments for hot flashes, will necessarily uncover results for compounds which reduce the risk, or suppresses, etc. hot flashes.

Applicants maintain that according to MPEP 803 "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." Applicants maintain that such search does not pose a serious burden, and request withdrawal of the restriction requirement.

For the reasons above, it is respectfully asserted that this restriction requirement is improper, and withdrawal is respectfully requested. All claims of Groups II-IV should be examined together, in particular, groups I and II should be examined together.

If the Examiner has any questions or comments as to this response, the undersigned may be contacted at the address and telephone number below.

Please charge any fees associated with this paper to deposit account No. 50-3355.

  
Respectfully submitted,

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If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.